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*Counsel for Class Representative Steven Ganz and  
Class Member Eleanor Lewis*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**IN RE: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION**

Master File No. 3:07-cv-5944-JST

MDL No. 1917

This Document Relates to:  
All Indirect Purchaser Actions

**DECLARATION OF TRACY R. KIRKHAM IN  
SUPPORT OF MOTION OF COOPER &  
KIRKHAM, P.C., FOR APPOINTMENT AS  
LEAD COUNSEL FOR INDIRECT-  
PURCHASER PLAINTIFFS WITH CLAIMS  
IN NON-REPEALER STATES**

Hearing Date: June 6, 2019  
Time: 2:00 p.m.  
Judge: Honorable Jon S. Tigar  
Courtroom: 9, 19<sup>th</sup> Floor

1 I, Tracy R. Kirkham, declare as follows:

2 1. I am a member in good standing of the State Bar of California, and licensed to  
3 practice in the states of California, Pennsylvania and New Jersey. I am a Principal in Cooper &  
4 Kirkham, P.C. I make this Declaration in Support of the “Motion of Cooper & Kirkham, P.C., for  
5 Appointment as Lead Counsel for Indirect-Purchaser Plaintiffs with Claims in Non-Repealer  
6 States,” filed herewith. I have personal knowledge of the facts stated in this Declaration and, if  
7 called as a witness, I could and would testify competently to them.

8 2. Cooper & Kirkham (“C&K”) is counsel of record for plaintiff Steven Ganz, a  
9 resident of and CRT Product purchaser in California, and as such, has participated almost from its  
10 inception, in the development of the merits of this litigation. C&K had particular responsibility for  
11 discovery and evidence review and synthesis concerning the Philips corporate defendants. Mr.  
12 Ganz is a class representative for the California Damage Class certified for litigation purposes, and  
13 for the Nationwide Settlement Class and California Damage Subclass provisionally certified in  
14 connection with the 2015 global settlements. C&K has the sixth (6th) largest lodestar of the forty-  
15 nine (49) law firms who submitted time and expenses for a fee and reimbursement award in 2015.  
16

17 3. C&K has been the principal advocate in this litigation for the theory that equitable  
18 monetary recovery is a remedy available to all indirect CRT product purchasers under the federal  
19 antitrust laws. In order to facilitate that advocacy, C&K recently entered an appearance for  
20 Eleanor Lewis, a resident of Ohio, a Non-Repealer State, who purchased CRT products there  
21 during the period alleged in the operative complaint. C&K’s representation of Ms. Lewis was  
22 undertaken with Mr. Ganz’s full knowledge and informed consent. Mr. Ganz has additional  
23 personal counsel with extensive antitrust experience, Gross Belsky Alonso LLP, who have  
24 appeared for him in the separate action filed against Mitsubishi by Lead Counsel, *Luscher v.*  
25 *Mitsubishi Electric Corporation*, Case No. 3:17-cv-04067.

26 4. A firm resume containing, among other things, a list of the complex antitrust and  
27 commercial cases in which C&K has played a major role is attached hereto as Exhibit 1. I have  
28

1 been the architect of electronic discovery protocols and procedures in most of the cases in which  
2 the firm has been involved in the past twenty-five (25) years. I was also the principal drafter of the  
3 motion for rehearing *en banc* and the briefing before the Third Circuit sitting *en banc* in *Sullivan v.*  
4 *DB Investments, Inc.*, 667 F.3d 273, 317 (3d Cir. 2011), *cert. denied, sub nom, Murray v. Sullivan*,  
5 566 U.S. 923 (2012). C&K is currently serving as Co-Lead Counsel in *In re Dynamic Random*  
6 *Access Memory (DRAM) Antitrust Litigation*, Master File No. M-02-1486-PJH (MDL No. 1486)  
7 (N.D. Cal.) and *In re Parking Heaters Antitrust Litigation* (Consol. Case No. 15-MC-0940 (DLI)  
8 (JO) (E.D.N.Y.). Both of these appointments run to the firm, not to a specific attorney within the  
9 firm. This has meant that there has been an uninterrupted performance of the firm's duties in those  
10 two cases despite the recent death of C&K's senior partner, Josef D. Cooper. However, even  
11 while Mr. Cooper was alive, I played a significant part in all aspects of the lead counsel role in  
12 both of those cases, as well as in the other cases listed in Exhibit 1. Attached as Exhibit 2 hereto,  
13 is a true and correct copy of a letter commenting on my work, written to me by the Honorable  
14 Charles B. Renfrew, who served as Special Master for all settlement evaluation, notice and fee  
15 issues in the *DRAM* litigation. Over a period of more than two years, I worked with Judge  
16 Renfrew and Emilio Varanini, Deputy Attorney General, Public Rights Division, State of  
17 California, in resolving issues and drafting the comprehensive report and recommendations  
18 presented to the Honorable Phyllis Hamilton, who is presiding over the *DRAM* litigation. *In re*  
19 *Dynamic Random Access Memory (DRAM) Antitrust Litigation*, Master File No. M-02-1486-PJH  
20 (MDL No. 1486), 2013 U.S. Dist. LEXIS 188116 (N.D. Cal. Jan. 8, 2013). I was also principally  
21 responsible for the drafting and arguing of the motions for preliminary and final approval of the  
22 global settlements in *DRAM*.

23  
24 5. A motion for final approval of a global settlement and plan of distribution in  
25 *Parking Heaters* is currently pending before the District Court for the Eastern District of New  
26 York. While we are waiting for an order from the court, I am working with my Co-Lead Counsel,  
27 Law Offices of Francis O. Scarpulla, to formulate policy and procedures for auditing the claims  
28 received in that litigation.

1           6.       Claims for equitable monetary relief were advanced and settled by C&K in both the  
2 *DRAM* and *Parking Heaters* litigation. The *DRAM* settlements are final, and the litigation  
3 concluded but for the disposition of the residual remaining from stale-dated checks after  
4 distribution of the proceeds to class members. Relying in part on the existence of the equitable  
5 claims for Non-Repealer State settlement class members, Judge Charles B. Renfrew, as Special  
6 Master, recommended and Judge Hamilton adopted a plan of distribution that paid all settlement  
7 class members *pro rata* without regard to whether their purchases occurred in Repealer or Non-  
8 Repealer States. *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, Master File  
9 No. M-02-1486-PJH (MDL No. 1486), 2013 U.S. Dist. LEXIS 188116 at \*190, \*207 (N.D. Cal.  
10 Jan. 8, 2013).

11           7.       We expect that the *Parking Heaters*' settlements and same type of *pro rata* plan of  
12 distribution will shortly be given final approval. Following a mediation by the Honorable Alfred  
13 P. Wolin (U.S. Dist. Judge, ret.), at which Non-Repealer State putative class members were  
14 represented by C&K, Co-Lead Counsel submitted a nationwide *pro rata* distribution plan to the  
15 *Parking Heaters*' Court. No objections were filed to this plan.

16           8.       A true and correct copy of the state Attorneys General's *amici* brief in *Apple, Inc. v.*  
17 *Pepper*, No. 17-204, is attached hereto as Exhibit 3.

18           9.       At the time that the fee petition was filed in July of 2015, C&K had made  
19 contributions to the common expense fund and incurred other unreimbursed expenses totaling  
20 \$100,362.37 in connection with the prosecution of the litigation. The firm also incurred out-of-  
21 pocket expenses in connection with its advancing of the interests of Non-Repealer State class  
22 members during the settlement objection and appeal processes for which it has not sought  
23 reimbursement. C&K is prepared to and is financially able to advance all funds necessary to  
24 zealously advocate for Non-Repealer State class members in the future.  
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26  
27  
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1 I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th  
2 day of April, 2019, in San Francisco, California.

3  
4 /s/ Tracy R. Kirkham

Tracy R. Kirkham